



CANNON BUILDING
861 SILVER LAKE BLVD., SUITE 203
DOVER, DELAWARE 19904-2467

STATE OF DELAWARE
DEPARTMENT OF STATE

TELEPHONE: (302) 744-4500
FAX: (302) 739-2712
WEBSITE: WWW.DPR.DELAWARE.GOV

DIVISION OF PROFESSIONAL REGULATION

ADVANCED PRACTICE REGISTERED NURSE COMMITTEE MINUTES

The Advanced Practice Registered Nurse Committee held a meeting on August 22, 2016 at 4:30 p.m., in Conference Room A, Cannon Building, 861 Silver Lake Boulevard, Dover, DE.

PRESENT: Cindy Cunningham, PMHCNS/NP; Mary Diamond, DO, Sandy Elliott, CNM; Leena Paul, MD; Delphos Price, CRNA (at 4:50 pm); Manisha Wadhwa, MD; Megan Williams, FNP

ABSENT: Richard Henderson, MD; Maryanne Holzapfel, RPh;

GUESTS: Maria Ash; Dana M. Baker; Sharon Baptiste-Brown; Susan Conaty-Buck; Cindy Drew; Jill Englund Jensen; David Mangler

PRESIDING: Megan Williams, DNP, FNP-C

STAFF: Peggy Mack, PhD, APRN, Executive Director - Division of Professional Regulation; Jennifer L. Singh, Deputy Attorney General, Delaware Department of Justice

1.0 CALL TO ORDER: Dr. Williams called the meeting to order at 4:45 p.m.

2.0 Review and Approval of Meeting Minutes

Minutes of the May 23, 2016 meeting were reviewed. Ms. Elliott moved to approve the minutes, seconded by Ms. Cunningham; the motion passed unanimously.

3. 0 New Business

3.1 Introduction of new committee members – Drs. Diamond and Wadhwa were introduced.

3.2. Review of comments for proposed Rules and Regulations

As published in the June Register of Regulations, written comments were accepted until July 28, 2016 pursuant to 29 Del. C. §10118(a). Ms. Singh reviewed the comments from the following.

Mr. Holleran - Delaware Association of Nurse Anesthetists (DANA)

- Definitions and Post-Basic Programs - No changes were proposed in the education requirements and post-basic education requirements. These were not in the proposed regulations. For 8.11.2 – if the words, post-basic, are added, it would be a substantive change

to the proposed rules, regulations and would require a new proposal per Ms. Singh. The Board could address reciprocal education requirements in the future.

- Use of abbreviations – NP can be clarified as CNP and would not be a substantive change to the proposed regulations, per Ms. Singh.
- Inclusion of dentists as collaborators – The role and population focus were reviewed; Ms. Singh cited 24 *Del. C. § 1934(f)(3)b.1.* and noted that dentists and oral surgeons do not practice in the same role and population focus as a CRNA

Motion - Ms. Cunningham motioned and seconded by Mr. Price, that as the post-basic education wording was not part of the proposed rules, regulations, it is non-applicable at this time; that it is ok to change NP to; and that the exclusion of dentists as collaborators for new APRN graduates will be retained – the motion passed unanimously. The motion will be a recommendation to the Board of Nursing.

Dr. Castaldo's email was noted. It was recognized that Dr. Castaldo's remarks were in context to a formalized letter from DANA.

Sharon Baptiste-Brown – Delaware Coalition for Nurse Practitioners (DCNP) -

- Collaborator and APRN relationship - treatment guidelines and metrics, benchmarks, parameters with 95% agreement level were discussed. The collaborative process could outline how to handle potential disagreements in the learning process. The underlying principles for collaboration will be mostly the same. It was observed that true collaborators will have productive conversations in how to achieve safe patient care, while meeting the requirements of the statute. For example, if an APRN sees 10,000 patients, 1,000 patients' charts would be reviewed; patient care would ultimately be agreed upon 95% of the time during the collaborative agreement period.
- The description of a health care delivery system in context to new graduates is contained in the law and in the rule and regulations. Ms. Singh referenced 8.17.2.3 and the statute definition of APRN and list of potential collaborators, for independent practice.
- 8.12.3 and 8.17.2.4 were discussed. The last sentence of 8.12.3 was reviewed: "The Advanced Practice Registered Nurse who has not practiced at least 2 years and 4000 hours will be required to furnish the name(s) of the licensed physician, podiatrist, or licensed Delaware health care delivery system with whom a collaborative agreement exists. For APRNs who intend to apply for independent practice, the collaborative agreement must be maintained until independent practice is granted by the Board." Ms. Singh noted that the statute does not require that one maintain a collaborative agreement, but questioned how difficult would it be to maintain a collaborative agreement, until independent practice is granted by the Board. To strike the last sentence of 8.12.3 would be a substantive change. The timeline for obtaining independent practice was discussed and the rules and regulations require due diligence; to re-propose, striking one sentence, would set back the timeline for obtaining independent practice. However, it is possible that clarification could occur at a future time. Mr. Price made a motion to take out the last sentence of 8.12.3, but there was no second to Mr. Price's motion. Dr. Paul made another motion – see below.

Motion - Dr. Paul motioned, seconded by Ms. Cunningham, to leave in the requirement of 95% congruence with review of 10% of the cases and not striking the last sentence of 8.12.3; the motion carried with Ms. Cunningham and Drs. Diamond, Paul, Wadhwa, Williams agreeing. Mr. Price opposed and Ms. Elliott abstained.

Dr. Williams suggested that clarification of 8.12.3 be drafted as a FAQ. It was pointed out that it applies to new APRN graduates, who have not yet the independent requirements. The Committee discussed that at this time a new APRN needs to keep the collaborative agreement until independent practice is granted.

In follow up conversation, Dr. Williams observed that although the proposed rules, regulations are not perfect, there will be future opportunities to revisit the statute – competencies, benchmarks, and metrics. Barriers to practice and / or restriction of trade may very well arise as APRNs become willing to testify to their challenges in obtaining independent practice and delivering quality health care.

Dr. Williams – on behalf of the Delaware Coalition of Nurse Practitioners’ comments by Dr. Wilbur

- It was noted that the Coalition’s remarks have been discussed in terms of chart review, consensus of care and the potential impact of the rules and, regulations.

Sandy Elliott – on behalf of the American Colleges of Nurse Midwives’ comments

- ACNM requests the definitions of Independent Practice and Full Practice Authority be updated, so that they are congruent with definitions established by the national APRN organizations (ACNM, AANP). Because this would be a substantive change, the APRN Committee agreed to consider this at a later date.
- The American Midwifery Certification Board is the correct name as the older name is no longer exists. Ms. Singh states that it is not a substantive change.

3.3 Discussion regarding the development of FAQs – tabled for September meeting.

3.4 Collaborative agreements

3.4.1 Licensed Delaware health-care delivery system

The Committee discussed how a health care delivery system is defined. The health care system could be listed as a collaborator, attestation, chart review – but a specific clinician would be noted. This would be included in the FAQs.

4.0 Public Comment –

Dr. Williams thanked the public for attending and for their comments.

Ms. Baptise-Brown asked if 8.12.3 could be “thrown out?” Ms. Singh noted that it would be a substantive change.

Ms. Baptise- Brown added: “An APRN could be in a situation ... that a collaborator, the physician may not be on site. The physician may not be available to review (with the APRN) charts in real time or in stream, so that you still have to find time after working a long day or make a separate appointment to go over all these charts....I am not sure a physician or a collaborator, regardless of their role, want to go over all these charts because it’s in the regulations. We should be focused on patient care, to make it more doable as far as the metrics and benchmarks. Just a concern I wanted to raise as you ponder

the regs.”

Ms. Conaty-Buck observed that the NP students, they have been discussing this, and they're very concerned about being able to find a collaborator who would be willing to accept this kind regulation because of the time factor and the realization that it is very easy to go across the border and go work someplace else. So, if we are trying to build a law that's going to protect patients, deliver good care, and encourage graduates to work in our state, there are some concerns here in terms of where the benefit is, in the long run. Yes, the intention is always to protect our patients. But looking back at this, there's no other state in the country that does this, and there is no other state that allows one profession to oversee charts to decide whether someone can graduate into their profession, after they have already prepared and been graduated from a master's degree or a doctoral program. So, there's a couple of reasons why there are some things that are probably not in the best interest... Thank you.

Jill Jensen – ...Her biggest fear is that this is going to be onerous for any preceptor to provide this kind of time and documentation and really worries that it is going to be a rate limiting step for many of the APRNs to get that person on board. She knows how difficult it is to schedule a meeting with someone and something comes up, and then it's delayed and pushed off. She's afraid it is going to be a rate limiting step and we'll be addressing it in two years. But, I'm worried about that. ”

Cindy Drew – has great concerns and agrees with what everyone has said. The one thing that concerns her the most is that it is going backwards. What the rule, the regulation, what the law says and saying that you have to have these metrics and prove it, kicks it over from collaboration to supervision. She thinks it is a supervisory role, rather than collaboration and doesn't think it was ever intended to turn the APRN to be a supervised APRN, within the first two years.

Ms. Baptiste-Brown discussed the value of a collaborative agreement. She stated that it is confusing for new graduates. She wonders if 8.12.3 only applies to new graduates. She is confused.

Ms. Cunningham clarified the three year process of the new legislation and it was at the end of the process that the benchmarks, metrics and competencies were introduced in order to have the bill passed.

Ms. Baptiste-Brown noted that APRNs may be in a Catch 22 in regards to retaining a collaborative agreement.

Ms. Elliott stated that she has found the new legislation difficult to obtain a collaborative agreement for a new APRN, as she strives to fill a position.

Ms. Ash asked when one could be able to independent practice. Ms. Singh noted that if the Board of Nursing votes to approve the rules, regulations at their September meeting, the earliest possible effective date would be October 11th, 2016. However, they would need to be operationalized by the Division of Professional Regulation (ex: applications for independent practice).

5.0 Next Meeting Date –September 19, 2016, 4:30 pm

6.0 Adjournment – 6:50 pm

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Peggy Mack".

Peggy Mack, PhD, APRN, PMHCNS,
Executive Director, Board of Nursing